

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH**

Bin Zhang, Acupuncturist
110 East Avenue
Norwalk, CT 06851

Petition No. 2001-0417-043-001

000017

MEMORANDUM OF DECISION

Procedural Background

On August 15, 2002, the Department of Public Health ("the Department") issued a Statement of Charges ("the Charges") against Bin Zhang, licensed acupuncturist ("respondent"). Rec. Exh. 1. The Charges alleged grounds for disciplinary action pursuant to *Conn. Gen. Stat. §20-206cc*.

On August 22, 2002, the Charges and a Notice of Hearing (the Notice") were sent to respondent. The Notice scheduled hearings for October 29 and 30, 2002 and appointed this Hearing Officer to rule on all motions, make findings of fact and conclusions of law, and issue an Order. Rec. Exh. 2.

On October 5, 2002, respondent filed an Answer to the Charges. Rec. Exh. 3.

On October 28 2002, respondent filed a Motion for Continuance of the hearing, which was granted. The hearing was continued until December 16 and 17, 2002. Rec. Exh. 6.

On December 13, 2002, respondent filed a Motion for Continuance or to Suspend the Hearing. Rec. Exh. 7.

On December 16, 2002, respondent's motion was denied and the hearing was held in accordance with Connecticut General Statutes, Chapter 54 and Regulation of Connecticut State Agencies §19a-9-1, *et seq.* Respondent was present and was represented by Attorney Joseph Musco; Attorney Leslie Scoville represented the Department.

During the December 16, 2002 hearing, the Hearing Officer determined that the hearing could not proceed until a number of legal issues were resolved, briefs on the matter were requested and the hearing was continued until February 24, 2003 and March 4, 2003.

On February 13, 2003, respondent's counsel submitted a motion for substitution of counsel and a request for a continuance of the February 24, 2003 hearing.

Rec. Exh. 12.

On February 14, 2003, the request for continuance was granted and the February 24, 2003 hearing was continued until March 10, 2003. Rec. Exh. 13.

On March 3, 2003, Attorney Paul Edwards, filed an appearance to replace Attorney Musco. Rec. Exh. 14.

On March 4, 2003, a notice of an additional scheduled hearing date for March 21, 2003 was sent to the parties. Rec. Exh. 18.

On March 7, 2003, respondent's counsel, submitted a motion for a continuance of the March 10, 2003 hearing, which was granted. Rec. Exh. 16. The hearing was held on March 3 and March 21, 2003. Rec. Exh. 19.

This Memorandum of Decision is based entirely on the record and sets forth this Hearing Officer's findings of fact, conclusions of law and order. To the extent the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc. v. S & H Computer Systems, Inc.*, 605 F.Supp. 816 (Md. Tenn. 1985).

Allegations

1. In paragraph 1 of the Charges, the Department alleges that respondent is, and has been at all times referenced in the Charges, the holder of Connecticut acupuncture license number 000017.
2. In paragraph 2 of the Charges, the Department alleges that on or about January 27, 2000, respondent provided acupuncture to female patient, L. C.
3. In paragraph 3 of the Charges, the Department alleges that while providing acupuncture to L. C. on or about January 27, 2000 respondent inappropriately rubbed L. C.'s vaginal area and/or inappropriately touched L. C.'s breasts.
4. In paragraph 4 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-206cc.

Findings of Fact

1. Respondent is, and has been at all times referenced in the Charges, the holder of Connecticut acupuncture license number 000017. Rec. Exh. 3.

2. On January 27, 2000, respondent provided acupuncture to L.C. Rec. Exh. 3, Resp. Exhs. 1-7, 8 (under seal), 11 15; Tr. 3/3/03, pp. 77-122, 138-141, 143.
3. The January 27, 2000 office visit was L. C.'s eleventh acupuncture treatment with respondent. Her appointment was at 3:00 p.m. Rec. Exh. 15 (under seal), Resp. Exhs. 8 (under seal), 11, 15; Tr. 3/3/03, pp. 87-88; Tr. 3/21/03, p. 92.
4. According to respondent's records, L. C.'s initial medical complaints dating back to November 30, 1999 when L. C. first began treatment with respondent, and include: extreme fatigue; headaches; pains in her neck, chest, stomach, and lower back; low grade fever; swollen glands in her armpit and groin; constipation; and, insomnia since 1993. L. C. had also been diagnosed with fibromyalgia and chronic fatigue syndrome, with secondary depression. Respondent diagnosed L. C.'s condition as kidney yang deficiency and liver qi stagnation. Rec. Exh. 15 (under seal); Tr. 3/3/03, pp. 88-90; Tr. 3/21/03, pp. 107-108.
5. During the January 27, 2000 office visit, prior to receiving an acupuncture treatment, L. C. complained of pain in her lower back, knees and the base of her head. She also complained of constipation, tightness in her chest, diaphragm and lower abdomen. Rec. Exh. 15 (under seal); Resp. Exh. 8 (under seal); Tr. 3/3/03, pp. 88, 111,114; Tr. 3/21/03, pp.110-111.
6. During the January 27, 2000 visit, respondent examined L. C.'s tongue and took her pulse. After discussing L. C.'s condition and complaints, respondent used the following acupuncture points for treatment: Ren 17, Ren 2, Liv 14, GB 20, GB 24, ST 20, ST 36, UB 17 and Jiaji L5. Resp. Exhs. 8(under seal), 10, 15 (under seal); Tr. 3/3/03, pp. 105-106.
7. Although not recorded in respondent's progress notes entry for January 27, 2000, a preponderance of the evidence establishes that respondent also used acupuncture point, Ren 1, the point that is located in the perineum between the vagina and anus. Ren 1 may be used to treat constipation and headaches. However, Ren 1 is rarely used in acupuncture because of its location. Tr. 3/3/03, pp. 78, 138; Tr. 3/21/03, pp. 59-60, 79, 174, 190.
8. During the January 27, 2000 visit, L. C. wore a disposable, paper gown, with the opening in the back. L. C. was completely nude underneath the paper gown. For the first half of the treatments, L. C. was lying on her back. Tr. 3/3/03, pp. 77, 104, 113; Tr. 3/21/03, pp. 39, 98, 125.
9. Ren 17, is located on the anterior midline, level with the 4th intercostal space, *i.e.*, in the middle of the chest. Resp. Exh. 10, Rec. Exh. 15 (under seal); Tr. 3/21/03, pp. 102-102, 123-124.

10. Ren 2 is located on the upper edge of the pubic bone, on the anterior midline, level with the 4th intercostal space. It is used to treat constipation, and lower stomach pain, among other symptoms. Resp. Exh. 10, Rec. Exh. 15 (under seal); Tr. 3/21/03, pp. 124, 184.
11. Liv 14 is located directly below the nipple in the 6th intercostal space. Resp. Exh. 10, Rec. Exh. 15 (under seal); Tr. 3/21/03, pp. 116-117.
12. GB 20 is a gallbladder point, located on the neck behind the ear. This point was used when L.C. was lying on her stomach. Resp. Exh. 10, Rec. Exh. 15 (under seal); Tr. 3/21/03, pp. 133-134.
13. GB 24 is a gallbladder point, a few inches lower than Liv 14, on the edge of the rib cage. Resp. Exh. 10, Rec. Exh. 15 (under seal); Tr. 3/21/03, pp. 118-119.
14. ST 20 is a stomach point about 6 inches above the belly button. Resp. Exh. 10, Rec. Exh. 15 (under seal); Tr. 3/21/03, pp. 119-120.
15. ST 36 is a stomach point about 3 inches below the kneecap, and one inch outside the shinbone. It is used to treat constipation, low energy and indigestion. Resp. Exhs. 10, Rec. Exh. 15 (under seal); Tr. 3/21/03, pp. 120-123, 185.
16. UB 17 is a urinary bladder meridian point, located in the middle back area. It is about one and a half inches from the middle line and level with the lower corner of the shoulder blade. When L. C. was lying on her stomach, this was another point used to treat her neck and back pain. Resp. Exh. 10; Tr. 3/21/03, p.134.
17. Jiaji L5 is a lumbar vertebrae point in the spine, about a half-inch from the middle line at the level of L5, on the waist. Resp. Exh. 10, Tr. 3/21/03, pp. 135-137.
18. At various times during the January 27, 2000 treatment, respondent inserted acupuncture needles in L. C.'s chest, lower abdomen above the pubic bone, shoulders, back, neck, both legs below the knee caps, and in the perineum, between the vagina and anus. Resp. Exhs. 2, 3, 4, 6, 8 (under seal); Rec. Exh. 15 (under seal); Tr. 3/3/03, pp. 78-80, 114-115, 158.
19. On January 27, 2000, after respondent inserted the needles in areas described above, respondent connected the needles to the electric stimulation machine for 15-20 minutes. The electric stimulation machine is used to improve the stimulation in the muscles where the needles are inserted. The treatment began with L. C. lying on her back. L. C. was required to lie flat and remain still. The same process was repeated when L. C. was lying on her stomach. For each 15-20 minute treatment, respondent set a timer and left the room to attend to other patients. Tr. 3/21/03, pp. 95-98, 111-126,129,132,162-163, 172.

20. On January 27, 2000, respondent's patients were scheduled to arrive at 15-minute intervals. Acupuncture treatments required one hour to an hour and a half; the patients' treatments overlapped, and respondent treated more than one patient at a time. Resp. Exh. 11; Tr. 3/21/03, pp. 32-33, 34-37, 81-94, 162-163, 172, 179-180.
21. On January 27, 2000, respondent's wife, Fengqi Cao, was in the office working from 12:00 p. m. until 4:00 p. m. However, she was performing various clerical duties at the reception desk and replenishing supplies in the treatment rooms. She was not in the treatment room when respondent was treating L. C. Tr. 3/21/03, pp. 17-20, 28-29, 30-33, 34-37, 138.
22. Upon respondent's return to the treatment room, he removed the needles and briefly massaged the areas where the needles had been inserted, including L. C.'s back and along her spine because of her fibromyalgia, neck and back pain. Tr. 3/3/03, pp. 115-117; Tr. 3/21/03, pp. 130-131.
23. During the course of the treatment, while L. C. was on her back, respondent separated L. C.'s labia and massaged her vaginal area, including on and around her clitoris. Rec. Exh. 15 (under seal); Tr. 3/3/03, pp. 78, 82.
24. At the conclusion of the acupuncture treatment, respondent massaged L. C.'s breasts. Rec. Exh. 15 (under seal), Tr. 3/3/03, pp. 80-85, 118-122.
25. At the conclusion of the acupuncture treatment, L. C. confronted respondent about massaging her breasts and revealed how uncomfortable it made her feel. Rec. Exh. 15 (under seal), Tr. 3/3/03, pp. 81, 118-122.
26. On January 27, 2000, L. C. did not confront respondent about massaging her vaginal area, initially believing that respondent's conduct was part of his using the perineum point, Ren 1. Tr. 3/3/03, pp. 77-78, 118-122, 144.
27. On January 28, 2000, L. C. went to the Norwalk Police Department and filed a complaint against respondent alleging sexual misconduct. A Sexual Abuse Counselor from the Sexual Abuse Crisis and Education Center ("SACEC") in Stamford, CT went with L. C. to the Norwalk Police Department. Resp. Exhs. 3, 4, 5; Rec. Exh. 15 (under seal); Tr. 3/3/03, pp. 106-108.
28. From January 28, 2000 through May 11, 2000, L. C. received thirteen weeks of counseling services from SACEC, the maximum number of free counseling services allowable. The services included in-person crisis counseling, telephone counseling, information and referral services, and other services related to crisis counseling. Rec. Exh. 15 (under seal).
29. After L. C. had exhausted the free counseling services provided by SACEC, she was referred to a licensed social worker for additional counseling. L. C. received

psychotherapy from this social worker for more than two years. Rec. Exh. 15 (under seal).

30. L. C. also has been treating with a psychiatrist intermittently since 1995. On April 11, 2000, L. C. first discussed the January 27, 2000 incident with her psychiatrist and subsequently discussed it numerous times. Resp. Exh. 8 (under seal); Rec. Exh. 15 (under seal).
31. L. C. was a prior victim of sexual abuse. Tr. 3/3/03, pp. 11-113, 135.
32. Both L. C.'s clinical social worker and psychiatrist found her to be credible. Rec. Exh. 15 (under seal).

Conclusions of Law and Discussion

Section 20-206 of the Connecticut General Statutes provides in pertinent part:

The Department may take any action set forth in section 19a-17 if a person issued a license pursuant to section 20-206bb fails to conform to the accepted standards of the acupuncturist profession, including, but not limited to, the following: . . . negligent, incompetent or wrongful conduct in professional activities . . .

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Swiller v. Commissioner of Public Health*, No. CV 95-0705601 (Sup. Court, J.D. Hartford/New Britain at Hartford, October 10, 1995).

The Department sustained its burden with regard to the allegations discussed above. The preponderance of the evidence establishes that respondent did not conform to the accepted standards of the acupuncture profession on January 27, 2000 when he inappropriately separated her labia and massaged her breasts, vagina and clitoris.

Since November, 1999, L. C. received acupuncture treatments from respondent for numerous, chronic medical complaints. L.C. acknowledged receiving acupuncture treatments from respondent on ten other occasions, during which she was not subjected to any inappropriate actions.

L. C. testified that during the eleventh acupuncture treatment, she reluctantly agreed to the use of an acupuncture point, Ren 1, the kidney meridian point located in the perineum between the vagina and the anus, because she was so desperate to feel better and respondent had suggested that it would help. On January 27, 2000, despite her earlier

refusal to permit respondent to use this point because of her discomfort with its location, L.C. gave respondent permission to use that point. Respondent denies ever using that particular acupuncture point in any of his treatments, but L. C. credibly testified that he did. Respondent's testimony on this issue was not credible. The preponderance of the evidence also establishes that on numerous occasions, L. C. discussed respondent's use of this point with sexual abuse counseling professionals, her clinical social worker and her psychiatrist. In the complaint L. C. filed with the Norwalk Police Department, respondent also discussed this course of treatment when she stated that respondent worked on some "intimate areas" of her body. L. C.'s testimony at the hearing was detailed and consistent with the information she shared with the SACEC counselor and the sworn statement she provided to the Norwalk Police Department, both on the day after the incident.¹

L. C.'s experiences with previous acupuncture treatments provided her with a sufficient background of knowledge to know what is customary and what is not customary or appropriate. Based on her testimony and previous sworn statements, it was clear that L. C. had developed a trust in respondent and the treatments that he provided. This explains why L. C. initially believed, that because she had given respondent permission to use the kidney meridian point in the perineum that respondent's massaging her vaginal area (specifically, the labia and clitoris) was legitimate medical treatment. However, L. C. believed that massaging her breasts at the conclusion of the acupuncture treatments was not appropriate medical care. L. C. testified that she asked respondent at the end of the session why he had massaged her breasts, but she never mentioned or challenged respondent regarding why he massaged her clitoris and vaginal area *three* times during treatment that day. Per usual, L. C. also left her \$10.00 co-payment as she was leaving the office.

According to SACEC, all of this is typical behavior of a victim of prior sexual abuse--L. C. did not immediately react to respondent's inappropriate behavior, behaving

¹ L. C.'s testimony is corroborated by the Department's investigative report which includes the Norwalk Police Department report; a statement from the clinical director of SACEC and other supporting documentation from SACEC records; and statements from her clinical social worker and psychiatrist. In accordance with *Dolgnier v. Jon M. Alander, Commissioner of Human Resources*, 237 Conn. 272, 676 A.2d 865 (1996), the investigative report was admitted into evidence as reliable, probative and substantial evidence of respondent's specific acts of misconduct with respect to L. C.'s treatment on January 27, 2000.

as if in a state of shock, disbelief and disorientation. L. C. testified that through years of psychotherapy and counseling, she later understood why she initially minimized and excused respondent's inappropriate behavior and professional misconduct and why her actions were detached and seemingly unemotional at the time. L. C. was also under the care of her psychiatrist for treatment related to chronic fatigue syndrome and secondary depression. However, while describing what took place on January 27, 2000, L. C. became visibly upset, necessitating a break in the hearing to regain her composure to discuss the extremely invasive and violative nature of respondent's actions.

L. C. also testified that she did not object to respondent's inappropriate conduct because she was afraid that respondent would get angry with her, and she believed that there were no other people in the office. Nonetheless, respondent's office and treatment records from January 27, 2000 document that there were at least two other patients in the other treatment rooms while L. C. was in the office. Fengqui Cao was also in the office, handling the reception desk and replenishing the treatment rooms with supplies, as needed, although she was not in the treatment room with L. C. A preponderance of the evidence establishes that the close proximity of the treatment rooms and the ventilation system made it easy for sounds and noises to be heard from the treatment rooms and that L. C. could hear others as well be heard by others in the adjoining treatment rooms. Tr. 3/21/03, pp. 75-79. Yet, out of fear for her safety (Tr. 3/3/03, pp. 82-83), L. C. made no noises, sounds or otherwise made any attempts to seek any assistance from any one else or bring any attention to respondent's sexually inappropriate conduct. This fear and feeling of lack of control over her own body later manifested itself in L. C.'s nightmares and symptoms of depression. In an effort to cope with these feelings of fear and insecurity, L. C. called the Crisis Hotline and received a total of 24 hours and 39 minutes of telephone and in-person crisis counseling and advocacy support from SACEC until she exhausted her free counseling sessions with SACEC. Subsequently, L. C. was referred to a clinical social worker for additional counseling.

In his defense, respondent consistently denied L. C.'s allegations of sexual abuse and/or sexually inappropriate conduct. Respondent insists that despite L. C.'s vivid memories to the contrary, that he did not engage in any sexually inappropriate behavior. This testimony was not credible. His only explanation for L. C.'s accusations is that she

had a financial motive. Respondent suggests that L. C. learned before he was informed that Landmark Healthcare, Inc. ("Landmark"), as the third party administrator for her insurance carrier, Physicians Health Services ("PHS"), would no longer pay as of January 1, 2000 for her previously, pre-certified acupuncture treatments. Therefore, according to respondent, L. C. carefully crafted sexually inappropriate allegations against him so that she did not have to pay her bill for the acupuncture treatments. After enduring more than three years of counseling, investigations, depositions, litigation and attendant expenses, it does not seem reasonable to this Hearing Officer that L. C. would go to such lengths for a financial benefit which is not certain.

In contrast, respondent offered no probative, reliable or material evidence, which refuted L. C.'s allegations. None of respondent's patients who were in the office the same time as was L. C. testified about what they might have seen or heard. Respondent's wife, Fenqui Cao, testified in support of her husband. Even if the possibility of her having a bias towards her husband could be completely dismissed, which it was not, Fenqui Cao's testimony had limited probative value. Fenqui Cao admitted in her testimony that she had no personal knowledge of what might have happened in L. C.'s treatment room because Fenqui Cao was not in the room at the same time respondent was providing treatment for L. C. When she did enter L. C.'s treatment room to replenish supplies, Fenqui Cao did not have a conversation with L. C. or otherwise interact with L. C. A preponderance of the evidence establishes that to avoid the evening rush hour traffic, Fenqui Cao left the office for the day before L. C. did. Therefore, Fenqui Cao was not there to hear L. C.'s conversation with respondent about what had just transpired in the treatment room and she was not there to observe L. C.'s demeanor when she departed.

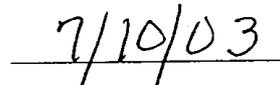
Despite respondent's and his wife's testimony and documentary evidence concerning the office layout and the presence of other patients at the same time L. C. was there, a preponderance of the evidence establishes that respondent failed to conform to accepted standards of the acupuncturist profession by engaging in wrongful sexual misconduct, subject to disciplinary action in accordance with Connecticut General Statutes §§19a-17 and 20-206cc.

Order

Based on the record in this case, the above findings of fact and conclusions of law, and pursuant to Connecticut General Statutes §§19a-17 and 20-206cc, the following is ordered in this case against Bin Zhang, acupuncturist, regarding Connecticut acupuncture license number 000017:

1. Respondent's license number 000017 to practice as an acupuncturist in the State of Connecticut is hereby revoked.
2. This Order shall become effective immediately.


Alfreda Gaither, Esq.
Hearing Officer


Date

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF HEALTHCARE SYSTEMS**

In re: Bin Zhang

Petition No. 2001-0417-043-001

CONSENT ORDER

WHEREAS, Bin Zhang of Norwalk, Connecticut (hereinafter "respondent") has been issued license number 000017 to practice acupuncture by the Connecticut Department of Public Health (hereinafter "the Department") pursuant to Chapter 384c of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department and respondent agree that:

1. On August 15, 2002, the Department issued a Statement of Charges which alleged that respondent engaged in sexual misconduct with a female patient. Respondent denied the allegations in the Statement of Charges.
2. On July 10, 2003, after a hearing, the Department issued a Memorandum of Decision revoking respondent's acupuncture license based upon findings of sexual misconduct with a female patient in January of 2000.
3. Respondent has filed an appeal of that decision in Connecticut Superior Court.
4. The parties wish to fully and finally resolve the administrative appeal pending in Connecticut Superior Court, Docket Number CV-03-0522782-S, by entering into this Consent Order.

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest the Memorandum of Decision, as amended by this Consent Order, agrees that for purposes of this or any future proceedings before the Department, that this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§ 19a-14 and 20-206cc of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§ 19a-14, 19a-17 and 20-206cc of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

- I. The Memorandum of Decision dated July 10, 2003 is modified by the deletion of the Order contained therein and substitution with the following Order:
 - a. Respondent's license to practice acupuncture shall be permanently restricted in that he shall always have an adult female present during any acupuncture treatment involving a female patient. The adult female shall not be a member of respondent's family. Respondent shall have each female patient sign the form attached as Attachment A to this Consent Order prior to receiving acupuncture treatment from respondent. Such form must be kept in the patient's medical record and must be made available to the Department upon request.
 - b. The Department shall have the right to inspect, at its discretion, respondent's patient records to ensure that this form is present in each female patient's file. Respondent shall maintain a record of the identity of the person present when a female patient receives acupuncture treatment from respondent. The adult female observing the acupuncture shall sign and date the female patient's medical record to indicate her

- attendance at the acupuncture treatment.
- c. Respondent shall permit the Department to conduct random, unannounced reviews of any and all records to ensure compliance with this paragraph.
 - d. Respondent's license shall be placed on probation for a period of four (4) years under the following terms and conditions:
 - i. Within six (6) months of the effective date of this Consent Order, respondent shall successfully complete and provide proof of completion, to the satisfaction of the Department, a class designed and managed by Leslie Lothstein, M.D., on sexual harassment and appropriate boundaries with patients. The class must be paid in full prior to its beginning, and respondent shall not practice as an acupuncturist until he has met with Dr. Lothstein and the class is begun.
 - ii. On January 15, 2005, January 15, 2006, January 15, 2007 and January 15, 2008, respondent shall send a letter to the Department indicating that he is in compliance with the terms of this Consent Order with respect to paragraph 2 above. Such letter shall be sent to the address in paragraph e below.
 - e. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308
 - f. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
 - g. Respondent shall pay all costs necessary to comply with this Consent Order.

- h. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:
 - i. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.
 - ii. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.
 - iii. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph f-i above to demonstrate to the satisfaction of the Department that he has complied with the terms of this Consent Order or, in the alternative, that he has cured the violation in question.
 - iv. If respondent does not demonstrate compliance or cure the violation by the limited fifteen (15) day date certain contained in the notification of violation to the satisfaction of the Department, he shall be entitled to a hearing before the Department which shall make a final determination of the disciplinary action to be taken.
 - v. Evidence presented to the Department by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.
- i. In the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from practicing as an acupuncturist, upon determination by the Department, for a period not to exceed 45 days. During that time period, respondent shall cooperate with the Department in its investigation of the violation.

Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that failure to cooperate with the Department's investigation shall constitute an admission that his conduct constitutes a clear and immediate danger as required pursuant to the General Statutes of Connecticut, sections 4-182(c) and 19a-17(c).

j. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Department.

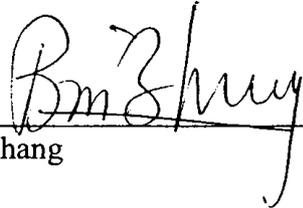
k. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Office of Practitioner Licensing and Certification of the Bureau of Healthcare Systems of the Department.

II. Within three (3) business days of receipt of a copy of the fully executed Consent Order, respondent shall withdraw, without costs to any party, his administrative appeal pending in Connecticut Superior Court, Docket Number CV-03-0522782-S.

III. Respondent understands that this Consent Order and the Memorandum of Decision as amended herein issued on July 10, 2003, shall be admissible in any proceeding before the Department in which respondent's compliance with this Consent Order or Chapter 384c of the Connecticut General Statutes is at issue. Respondent also understands that this Consent Order and the Memorandum of Decision as amended herein are public documents, and they shall be reported consistent with Connecticut and federal law and regulations and with Department policy.

- IV. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
- V. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.
- VI. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
- VII. Respondent permits a representative of the Legal Office of the Bureau of Healthcare Systems to present this Consent Order and the factual basis for this Consent Order to the Department. Respondent understands that the Department has complete and final discretion as to whether this executed Consent Order is approved or accepted.
- VIII. Respondent has consulted with his attorney prior to signing this document.
- IX. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau.
- XI. Respondent waives his right to any future hearings on the merits of this matter.
- X. This Consent Order is effective immediately following the date this Consent Order is accepted and ordered by the Department.

I, Bin Zhang, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.



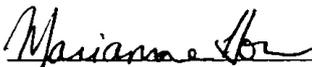
Bin Zhang

Subscribed and sworn to before me this 10th day of June, 2004.



Notary Public or person authorized
by law to administer an oath or affirmation
Commissioner of Superior Court

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 10th day of June, 2004, it is hereby accepted.



Marianne Horn, Director
Division of Health Systems Regulation
Bureau of Healthcare Systems

Attachment A – Statement for Female Patients of Bin Zhang

Bin Zhang’s license has been permanently restricted pursuant to a Consent Order signed by Mr. Zhang and the Connecticut Department of Public Health (“Department”). This Consent Order was signed in June of 2004.

This Consent Order modifies a Memorandum of Decision issued on July 10, 2003 by the Department which revoked Mr. Zhang’s acupuncture license based upon a finding of sexual misconduct with a female patient in January of 2000. Mr. Zhang denied this allegation at the hearing. Pursuant to this Consent Order, Mr. Zhang’s license is permanently restricted in that he shall have an adult female present during any acupuncture treatment of a female patient. In addition, Mr. Zhang’s license has been placed on probation for a period of four years. The period of probation ends in approximately June of 2008.

Female patients are required to sign this one page “Statement for Female Patients of Bin Zhang” prior to receiving acupuncture treatment from Mr. Zhang so that they are informed regarding this Consent Order.

If you have any questions regarding the Consent Order or the restriction on Mr. Zhang’s license, you may contact Olive Tronchin at the Department at 509-7800. You may request a copy of the Consent Order or the Memorandum of Decision as they are public documents. This signed Statement will remain in your medical record maintained by Mr. Zhang.

Patient’s Signature

Date

Patient’s Printed Name